

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

JOHN STOKER,

Plaintiff,

v.

**ESC G.P. II, Inc. and
ESC-NGH-LP, both D/B/A
EMERITUS AT NORTH AUSTIN,**

Defendants.

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Civil Action No: 1:13-cv-1018

PARTIES' REPORT OF RULE 26(f) CONFERENCE AND DISCOVERY PLAN

Plaintiff and Defendants (collectively, "the Parties") submit the following Report and Discovery Plan pursuant to Federal Rule of Civil Procedure 26(f).

1. **Rule 26(f) Conference:** The Parties conducted the Rule 26(f) conference on January 15, 2014.

2. **Nature and Basis of Claims and Defenses:** Plaintiff has alleged that he was discriminated against on the basis of his race and retaliated against in violation of Title VII of the Civil Rights Act of 1964 and 42 U.S.C. §1981. Defendants deny Plaintiff's contentions.

3. **Possibility of Prompt Settlement:** At this time, the Parties have agreed to discuss the possibility of mediation of this action following responses to written discovery and depositions.

4. **Rule 26(a) Disclosures:** Pursuant to Federal Rule of Civil Procedure 26(a)(1), the Parties stipulate and agree that they will submit initial disclosures to each other by February 19, 2014. The Parties further agree that no changes should be made in the timing, form, or

requirement of other disclosures under Rule 26(a), except to the extent that the Court has ordered otherwise.

5. **Discovery Plan:** The Parties agree that discovery will be conducted on matters that include, but are not limited to, (1) the merits of Plaintiff's claims; (2) Plaintiff's damages; and (3) Defendants' defenses. The Parties agree that discovery will be completed by whatever date is established by the Court in its Scheduling Order. The Parties agree that no changes should be made to the generally applicable discovery rules, and that all discovery will be conducted pursuant to the Federal Rules of Civil Procedure and this Court's orders. Privileges will be asserted pursuant to the Federal Rules of Civil Procedure.

6. **Preservation of Discoverable Information:** The Parties agree that all discoverable information in this case will be preserved in its native format.

7. **Electronically Stored Information:** The Parties agree that electronically stored information may be produced in a hard copy form in response to a discovery request, unless the Party requesting the information specifically requests production in another form (i.e., electronic or native form) in that specific discovery request.

8. **Proposed Scheduling Order:** The Parties have filed a proposed scheduling order with the Court.

9. **Non-Consent to Magistrate:** Plaintiff agrees to consent to a magistrate judge. Defendants' counsel will confer with Defendants to consider consent to a Magistrate Judge in this action. The Parties will file their respective Notice Concerning Reference to United States Magistrate Judge by April 18, 2014.

10. **Pending Motions:** There are no pending motions at this time.

11. **Estimated Trial Length:** The Parties estimate a trial length of 3-4 days in this matter.

Respectfully submitted,

TERRY, SIMON & KELLY, P.L.L.C.

/s/ Kell A. Simon

Kell A. Simon
Texas Bar No. 24060888
kell@tsklawfirm.com
1002 Rio Grande Street
Austin, Texas 78701
PH: 512.391.1955
FX: 512.588.1726

ATTORNEYS FOR PLAINTIFF

JACKSON LEWIS P.C.

/s/ Julie C. Tower

Michael J. DePonte
Texas Bar No. 24001392
depontem@jacksonlewis.com
Julie C. Tower
Texas Bar No. 24070756
julie.tower@jacksonlewis.com
111 Congress Ave., Suite 1300
Austin, Texas 78701
PH: 512.362.7100
FX: 512.362.5574

ATTORNEYS FOR DEFENDANTS

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